

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION**

AARON NIVENS,

Petitioner,

v.

JASON LEWIS,

Respondent.

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No. 1:20-CV-26-SPM

**MEMORANDUM AND ORDER**

This matter is before the Court on petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The Court will summarily dismiss the petition because it is successive.

In July 1992, petitioner was found guilty by a jury in the City of St. Louis of forcible rape, armed criminal action, and first degree burglary. He was sentenced as a prior, persistent, and class X offender to two consecutive terms of life imprisonment on the forcible rape and armed criminal action charges and to a concurrent term of 30 years' imprisonment on the burglary charge. Petitioner previously challenged this judgment under 28 U.S.C. § 2254 in the case *Nivens v. Dormire*, 4:97-CV-375-CAS (E.D. Mo. filed Mar. 5, 1997). The Court dismissed the case because the grounds raised in the petition were either without merit or procedurally barred. *Id.* (ECF Nos. 11, 12). Petitioner did not appeal. Petitioner now seeks to challenge the same state court judgment.

Rule 4 of the Rules Governing § 2254 Cases provides that a district court shall summarily dismiss a § 2254 petition if it plainly appears that the petitioner is not entitled to relief.

To the extent that petitioner seeks to relitigate claims that he brought in his original petition, those claims must be dismissed pursuant to 28 U.S.C. § 2244(b)(1). To the extent that petitioner

seeks to bring new claims for habeas relief, petitioner must obtain leave from the United States Court of Appeals for the Eighth Circuit before he can bring those claims in this Court. 28 U.S.C. § 2244(b)(3)(A). Petitioner has not been granted leave to file a successive habeas petition in this Court. And the AEDPA's restriction on filing successive petitions is retroactively applicable to cases that were filed before the AEDPA was enacted. *See, e.g., Daniels v. United States*, 254 F.3d 1180, 1188 (10th Cir. 2001). As a result, the petition will be summarily dismissed.

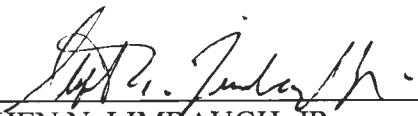
Accordingly,

**IT IS HEREBY ORDERED** that petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 is **DISMISSED** without prejudice.

**IT IS FURTHER ORDERED** that no certificate of appealability will issue.

An Order of Dismissal will accompany this Memorandum and Order.

Dated this 7<sup>th</sup> day of February, 2020.

  
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STEPHEN N. LIMBAUGH, JR.  
UNITED STATES DISTRICT JUDGE